

HEALTH AND SENIOR SERVICES

OFFICE OF BUDGET, FINANCE AND INFORMATION TECHNOLOGY

BUREAU OF VITAL STATISTICS AND REGISTRATION

Death Records

Proposed Repeal and New Rules: N.J.A.C. 8:2A

Authorized By: Clifton R. Lacy, M.D.

Commissioner, Department of Health and Senior Services

Authority: N.J.S.A. 26:8-23

Calendar Reference: See Summary below for explanation of exception to
calendar requirement.

Proposal Number: PRN 2005- 15

Submit written comments by March 19, 2005 to:

Joseph A. Komosinski, State Registrar

Department of Health and Senior Services

P.O. Box 370

Trenton, New Jersey 08625-0370

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1c, N.J.A.C. 8:2A, Death Records, is scheduled to expire on December 6, 2004. The controlling statutes pertaining to the execution of death certificates and the filing and maintenance of death records may be found at N.J.S.A. 26:6-1, et seq. and N.J.S.A. 26:8-1, et seq.

Existing N.J.A.C. 8:2A sets forth the procedure for gaining access to death records. The Department of Health and Senior Services (the Department) has reviewed N.J.A.C. 8:2A and due to significant changes in the law during the five years since the Department last readopted the provisions of N.J.A.C. 8:2A, is proposing the repeal of existing N.J.A.C. 8:2A and the adoption of new rules at N.J.A.C. 8:2A. Specifically, within the past five years, the Legislature has passed P.L. 2003, c.221, pertaining to the introduction of a New Jersey Electronic Death Registration System (NJ-EDRS), and P.L. 2003, c.246, the Domestic Partnership Act. In addition, on April 24, 2004, the Governor signed Executive Order #18 regarding measures to deter the misuse of vital records by establishing safeguards regarding the issuance of such records. The numerous changes dictated by these laws and executive order with regard to the manner in which death records are filed and the means by which they are accessed has prompted the Department herein to propose the repeal of existing N.J.A.C. 8:2A and the adoption of new rules at N.J.A.C. 8:2A.

A summary of the subchapters of proposed new N.J.A.C. 8:2A follows:

Proposed N.J.A.C. 8:2A-1 would set forth the general provisions of the chapter. Specifically, it would indicate the application and scope of the chapter, namely, that it is being promulgated in order to implement the provisions of N.J.S.A. 26:6-1, et seq. and 26:8-1, et seq., pertaining to the execution, registration and recording of death certificates and the maintenance of death records. The subchapter would also define words and terms to be used throughout the chapter.

Proposed N.J.A.C. 8:2A-2 would explain the procedures for obtaining certified copies and certifications of death records. These proposed procedures are in accord with Executive Order #18 which requires in pertinent part that the Department establish standardized forms for the issuance of certified copies of vital records which contain safety features for authentication purposes and to deter forgery. Executive Order #18 also requires, and the proposed procedures would ensure, that the certified copy form created by the Department is readily distinguishable from the form designated for certifications of vital records which shall be used for informational purposes only. In addition, Executive Order #18 requires, and the proposed procedures would ensure, that a State or local registrar may issue a certified copy of a death record only to persons who establish themselves as, (1) the parent of the subject of the death record, (2) the subject's legal guardian or legal representative, (3) the subject's child, grandchild or sibling, if of legal age, (4) a State or federal agency seeking the record for official purposes, (3) a person seeking the record pursuant to court order, or (4) a person seeking the record under other emergent circumstances, as determined on a case-by-case basis by the Commissioner.

Proposed N.J.A.C. 8:2A-2 would also indicate that the last sickness and death particulars (cause of death and medical particulars) will only be included on the certified copy or certification of the death record if the applicant verifies that he or she is (1) the parent of the subject of the death record, (2) the subject's legal guardian or legal representative, (3) the subject's child, grandchild or sibling, if of legal age, (4) a State or federal agency seeking the record for official

purposes, (3) a person seeking the record pursuant to court order, or (4) a person seeking the record under other emergent circumstances, as determined on a case-by-case basis by the Commissioner. In addition, proposed N.J.A.C. 8:2A-2 would address the release by a family member to a third party of the cause of death and medical particulars, through completion of an “Authorization for the Release of Cause of Death” similar to that in Appendix A. Finally, the proposed subchapter would incorporate the exception within existing N.J.A.C. 8:2A from the consent requirement for the release of last sickness and death particulars to qualified personnel for the purpose of conducting scientific research (subsequent to Institutional Review Board approval) or management audits, financial audits or program evaluations.

As proposed, N.J.A.C. 8:2A-2 would also address fees charged by the Department associated with requests to search, copy or change death records. Proposed N.J.A.C. 8:2A-2.4(a) would indicate that for each search of records of death, whether or not a certification or certified copy is made, the applicant shall remit to the State Registrar a fee of \$25.00, with the exception of searches of genealogical records of death under N.J.A.C. 8:2A-2.4(b) and searches for which there shall be no fee pursuant to N.J.S.A. 26:8-63. N.J.A.C. 8:2A-2.4(b) would provide that for any search of genealogical records of death, whether or not a certification or certified copy is made, the applicant shall remit to the State Registrar a fee of \$25.00, plus a fee of \$1.00 for each additional year searched, except as provided by N.J.S.A. 26:8-63. The intent of this fee scheme is that whereas the Department would charge a fee of \$25.00 for each search of a non-

genealogical record of death, whether or not a certification or certified copy is made, for the search of genealogical records, the Department would charge a fee of \$25.00 for the first year searched only and would then charge \$1.00 for each additional year searched. Proposed N.J.A.C. 8:2A-2.4(c) would state that the fee for each additional copy of a record of live birth or stillbirth would be \$2.00 and proposed N.J.A.C. 8:2A-2.4(d) would state that fees for certified copies or certifications obtained from a local registrar shall be set by municipal ordinance.

N.J.S.A. 26:8-64, currently provides that for any search of the files and records of births, deaths, marriages or domestic partnerships, whether or not a certification or a certified copy is made, the State Registrar shall be entitled to a minimum fee of \$4.00, which fee shall be paid by the applicant, except as provided by N.J.S.A. 26:8-63, and that the fee for each additional copy shall be \$2.00. Since 1983, the Department has charged those requesting a search of vital records only the minimum fee of \$4.00. During that time, the Department has strived to provide a significant upgrade in services, but has found it difficult to do so under the current fee structure. Moreover, a comparison of fee rates for birth and death record searches listed in the United States Census Bureau report, entitled, "Where to Write for Birth and Death Records in the United States and Outlying Areas," reveals that New Jersey charges the third lowest rate in the country. Since the events of September 11, 2001, the nationwide demand for increased security has made it necessary for our citizens to provide proof of their identities in order to obtain vital records. The mandate set forth in the Governor's Executive Order #18 instructs the Department to protect the vital records of our

citizenry, thereby requiring more involved security measures. Consequently, providing service to our citizenry has become more labor intensive, time consuming and costly. The proposed fee increase from \$4.00 to \$25.00 would generate a significant portion of the revenue needed to offset the expenses incurred by the Office of the State Registrar to purchase certificate paper with security features, the cost of technology to be procured to affect standardized storage and issuance of vital records and to hire additional personnel if needed.

Proposed N.J.A.C. 8:2A-3 would, in accordance with P.L. 2003, c.221, set forth requirements relating to participation in and access to the NJ-EDRS. It would also address the electronic submission of death records, the certifying of the death particulars and the remitting of fees under the NJ-EDRS. Finally, proposed N.J.A.C. 8:2A-3 would address the authority of the State Registrar, pursuant to P.L. 2003, c.221, to suspend the authority of a local registrar, deputy registrar, alternate deputy registrar or subregistrar to participate in the NJ-EDRS, and thereby preclude that person from issuing burial permits or death registration, if the State Registrar determines that the applicable registration district is insufficiently equipped or provides untimely service with respect to the review and final authorization of records. The proposed subchapter would also address what would occur in the event that the State Registrar did suspend the authority of a local registrar, deputy registrar, alternate deputy registrar or subregistrar to participate in the NJ-EDRS.

Proposed N.J.A.C. 8:2A-4 would establish the requirement that local registrars must complete Certified Municipal Registrar (CMR) training approved

and authorized by the State Registrar in order to retain their positions. N.J.S.A. 26:8-24(h) empowers the State Registrar to, “[d]evelop and provide to local registrars an education and training program, which the State registrar may require each local registrar to complete as a condition of retaining that position, and which may be offered to deputy local registrars, alternate deputy local registrars and subregistrars at the discretion of the State registrar, that includes material designed to implement the NJ-EDRS and to familiarize local registrars with the statutory requirements applicable to their duties and any rules and regulations adopted pursuant thereto, as deemed appropriate by the State registrar.” Proposed N.J.A.C. 8:2A-4 would set forth the education and training requirements necessary to retain CMR certification and to renew that certification through obtaining re-certification credits.

As the Department has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The Department anticipates that the proposed new rules will have a positive impact on the welfare and safety of the public. P.L. 2003,c.221 mandates the establishment of the NJ-EDRS as well as statewide training and participation of personnel at facilities responsible for the completion and electronic transmission of death reports to the Office of the State Registrar. The Department anticipates that the electronic reporting process will enable funeral

directors to expedite death records completion in a more timely and cost effective manner that will enable them to provide their clients with death records and vital information necessary for filing for survivor's benefits with increased efficiency.

The Governor's Executive Order # 18 mandates rigorous custodial care of the vital records of the citizens of the State of New Jersey, through more vigilant and discriminating processing of applications for vital records. The Department has responded by requiring proof of identity as part of the application process for individuals requesting certified copies and certifications, as well as mandating the creation of certificates on standardized paper with security features statewide, to discourage the marketing of fraudulent documents and identity theft. The Department anticipates that the incorporation of rules in compliance with State statute and Executive Order #18 will facilitate a more efficient and secure vital records and data management process. The misuse of official identity records presents grave risks to the public by those seeking to perpetrate frauds and other crimes on New Jersey's citizens, and, more critically, potentially by those within our borders who wish to endanger the safety and security of our State and the nation through terrorism. It is the Department's intent through its proposed new rules at N.J.A.C. 8:2A to do its part in protecting the citizens of this State and the nation against such risks.

Economic Impact

As of March 1, 2004 pursuant to N.J.S.A. 26:6-17, the fee charged for burial permits collected by local registrars was increased from \$1 to \$5. This fee

increase is reflected in proposed new N.J.A.C. 8:2A. Pursuant to N.J.S.A. 26:8-64(c), funeral homes are obliged to pay a recording fee of \$10 to the State Registrar for filing death records. This fee also appears within proposed new N.J.A.C. 8:2A. Under the law and indicated within the proposed new rules, both the \$5 and \$10 fees sunset on the first day of the thirty-seventh month following the January 9, 2004 effective date of P.L. 2003, c.221. Prior to the establishment of NJ-EDRS through P.L. 2003, c.221, the State did not receive a filing fee for death records. The \$10 fee will be used to offset development and operational costs incurred by the Department for the NJ-EDRS.

It is estimated that the costs currently incurred by funeral homes to expedite the death record completion process under the paper system range from \$60 to \$80 per record . It is anticipated that the funeral directors will view the \$10 fee as negligible, and the establishment of NJ-EDRS as having an overall positive impact since the implementation of electronic record filing will enable them to realize significant savings of costs previously incurred for manpower, lengthy commutes and time spent at various facilities to obtain data and authorizations from medical examiners and individuals responsible for the completion of death records.

With regard to proposed new N.J.A.C. 8:2A-2.4, reflecting an increase in the fee for each search of records of death by the State Registrar from \$4.00 to \$25.00, as explained in the summary above, since 1983, the Department has charged those requesting a search of vital records the minimum fee of \$4.00. During that time, the Department has strived to provide a significant upgrade in

services, but has found it difficult to do so under the current fee structure. Moreover, a comparison of fee rates for birth and death record searches listed in the United States Census Bureau report, entitled, "Where to Write for Birth and Death Records in the United States and Outlying Areas," reveals that New Jersey charges the third lowest rate in the country. Since the events of September 11, 2001, the nationwide demand for increased security has made it necessary for our citizens to provide proof of their identities in order to obtain vital records. The mandate set forth in the Governor's Executive Order #18 instructs the Department to protect the vital records of our citizenry, thereby requiring more involved security measures. Consequently, providing service to our citizenry has become more labor intensive, time consuming and costly. The proposed fee increase from \$4.00 to \$25.00 would generate a significant portion of the revenue needed to offset the expenses incurred by the Office of the State Registrar to purchase certificate paper with security features, the cost of technology to be procured to affect standardized storage and issuance of vital records and to hire additional personnel if needed.

Federal Standards Statement

The proposed new rules are not subject to any Federal standards or requirements. Therefore, a Federal standards analysis is not required.

Jobs Impact

As indicated within both the summary and the economic impact statement, the proposed fee increase at proposed new N.J.A.C. 8:2A-2.4 may facilitate the hiring of additional staff by the Department, if needed, in order to perform the functions required of the Office of the State Registrar in recording and issuing official documents related to vital records and doing so using the more labor intensive and costly safety measures mandated by Executive Order #18. As explained above, these safety measures were mandated by the Governor in order to protect the citizenry of New Jersey and the nation against those seeking to perpetrate frauds and other crimes as well as those who wish to endanger the safety and security of our State and the nation through terrorism. With the exception of the above, the Department does not expect that the proposed new rules would result in the generation or loss of jobs in the State.

Agriculture Industry Impact

The proposed new rules would not have an impact on the agriculture industry of the State.

Regulatory Flexibility Statement

The proposed new rules would apply to funeral directors, physicians in private practice, small hospice care and nursing home facilities with staff of less than one hundred employees. The aforementioned meet the definition of small businesses as outlined in the Regulatory Flexibility Act, N.J.S.A. 52: 14B-16, et

seq. However, the rules do not impose any new reporting or recordkeeping requirements.

The one additional compliance requirement that would be imposed under the proposed new rules upon small businesses as well as larger organizations and facilities involved in the death report process stipulates that at least one staff member from each organization must successfully complete a State approved NJ-EDRS training course and register with the State Registrar as NJ-EDRS authorized users. This requirement is explicitly set forth at N.J.S.A. 26:8-24.3 and the Department has no discretion to waive it.

NJ-EDRS is accessible via the internet and there will be no cost for access or usage of the system, however the system will require the use of a computer. It is expected that the majority of businesses that do not already have computers will acquire them at their own expense to make certain that they have the means to process death reports efficiently and to insure that they are in compliance with agency rules and State statutes. Proposed new N.J.A.C. 8:2A-3.2(c) stipulates that local registrars must make computer facilities with access to NJ-EDRS available to funeral directors and physicians who are registered with NJ-EDRS for the purpose of providing information necessary to complete a death record. This requirement of local registrars should assist those small businesses without computer facilities with meeting the requirements of P.L. 2003, c.221 and the proposed new rules promulgated thereunder at minimal or no cost.

Smart Growth Impact

The Department does not anticipate that the proposed new rules would have any impact on smart growth in New Jersey or on the implementation of the New Jersey State Development and Redevelopment Plan.

Full text of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 8:2A.

Full text of the proposed new rules follows:

CHAPTER 2A

DEATH RECORDS

SUBCHAPTER 1 GENERAL PROVISIONS

8:2A-1.1 Application and Scope

The rules of this chapter are promulgated by the Department of Health and Senior Services in order to implement the provisions of N.J.S.A. 26:6-1, et seq., and N.J.S.A. 26:8-1, et seq., pertaining to the execution, registration, and recording of death certificates and the maintenance of death records.

8:2A-1.2 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Authentication” means the entry by the State Medical Examiner or a county medical examiner, funeral director or physician into the New Jersey Electronic Death Registration System of a personal identification code, digital signature or other identifier unique to that user, by which the information entered into the system by the user is authenticated by the user who assumes responsibility for its accuracy. “Authentication” also means the process by which the State Registrar or a local registrar, deputy registrar, alternate deputy registrar or subregistrar indicates that person’s review and approval of information entered into the system by the State Medical Examiner or a county medical examiner, funeral director or physician.

“Authorized users” means participants in the death registration process, including but not limited to, the State Registrar, local registrars, deputy registrars, alternate deputy registrars, subregistrars, the State medical examiner, county medical examiners, funeral directors, attending physicians and resident physicians, licensed health care facilities, and other public or private institutions providing medical care, treatment or confinement to persons, who have established to the satisfaction of the State Registrar that they have completed State approved training in the use of the New Jersey Electronic Death Registration System and who have been assigned login credentials by the State Registrar or his/her designee.

“Certification” means a document containing information obtained from a vital record made available for informational purposes only. It cannot be used for proof of identity or for legal purposes. It is created on plain bond paper

without the raised seal of the State of New Jersey or the seal of the municipality or county where the certifications are issued. “Certification” also means, within the context of education and training, the official acknowledgement of a course of training approved by the State Registrar.

“Certified Copy” means a copy of a vital record issued on a special type of safety paper containing a variety of security features and stamped with the raised seal of the State of New Jersey or the seal of the municipality or county where the copies are issued, and verified by the Office of the State Registrar as true and correct.

“Certified Municipal Registrar” (“CMR”) means an individual who has attended and successfully completed the “CMR – Basics” training course approved and authorized by the State Registrar.

“Commissioner” means the Commissioner of the New Jersey Department of Health and Senior Services

“Department” means the New Jersey Department of Health and Senior Services.

“Electronic registration system” means any electronic method, including, but not limited to, one based on Internet technology, of collecting, transmitting, recording and authenticating information from one or more responsible parties, which is necessary to complete a vital record, and is designed to replace a manual, paper-based data collection, recordation and signature system.

“Fetal Death” or “stillbirth” means death prior to the complete expulsion

or extraction from it's mother of a product of conception, irrespective of the duration of pregnancy; the death is indicated by the fact that after such separation, the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles. Heartbeats are to be distinguished from transient cardiac contractions; respirations are to be distinguished from fleeting respiratory efforts or gasps.

"Genealogical records" means vital records traditionally requested for the purpose of obtaining the lineage of a person, family or group from a family. Records of death are considered genealogical after 50 years have passed from the date of death.

"Informant" means the name of the individual providing the personal particulars for the preparation of the death certificate.

"Local registrar" or "municipal registrar" means the local registrar of vital statistics of any district.

"New Jersey Electronic Death Registration System" or "NJ-EDRS" is an electronic registration system for completing a certification of death or fetal death record that is authorized, designed and maintained by the State Registrar.

"Re-certification credits" means the credits assigned by the State Registrar for purposes of renewing a person's CMR certification, for courses, seminars and meetings related to Vital Statistics attended by the person seeking renewal of his or her CMR certification. The State Registrar may assign re-certification credits at a rate of one credit per hour for approved meetings,

seminars or courses attended. The twelve re-certification credits required to renew a CMR certification shall include no more than two meetings, no more than two seminars and a minimum of one complete course.

“Registration district” or “district” means the district established by law for the registration of vital events.

“State Registrar” means the New Jersey Registrar of Vital Statistics.

“Vital Records” means the birth, death, fetal death, marriage, and domestic partnership records from which vital statistics are produced.

“Vital Statistics” means statistics concerning births, deaths, fetal deaths, marriages and domestic partnerships.

SUBCHAPTER 2 ACCESS TO DEATH RECORDS

8:2A-2.1 Certified Copies

(a) The State Registrar or a local registrar may only issue a certified copy of a death record to a person who satisfies the following requirements:

1. The person is able to identify the record;
2. The person provides, at a minimum, all of the information requested on the Vital Statistics and Registration application form; and
3. The person produces documentation verifying that he or she is:
 - i. The parent of the subject of the death record;
 - ii. The subject’s legal guardian or legal representative;
 - iii. The subject’s spouse or domestic partner;

- iv. The subject's child, grandchild or sibling, if of legal age;
- v. A State or federal agency requesting the record for official purposes;
- vi. A person requesting the record pursuant to a court order; or
- vii. A person requesting the record under emergent circumstances, as determined by the Commissioner.

(b) The certified copy of the death record shall include information deemed appropriate by the State Registrar; however, at a minimum, it shall include the name of the decedent, place of death (county, municipality), date of death, sex, date of birth, date of issuance and manner of death, providing this information is available.

(c) The certified copy of the death record may include other information; however, the last sickness and death particulars (cause of death and medical particulars) will only be included on the certified copy of the death record if the applicant satisfies the requirement in (a)3 above and requests that the last sickness and death particulars be included.

(d) Any of the relatives to the decedent listed in (a)3i through (a)3iv above, with the exception of the funeral director as legal representative, may consent to the release to a third party of a certified copy of the death record containing cause of death and medical particulars. Such consent must be provided in the form of an Authorization for Release of Cause of Death similar to that set forth in Appendix A, incorporated herein by reference.

(e) Any certified copy of a death record, with or without last sickness and death particulars, may be released without consent under the following conditions:

1. To qualified personnel for the purpose of conducting scientific research only under the following conditions:

- i. An Institutional Review Board constituted pursuant to Federal regulation 45 C.F.R. 46.101, et seq. shall review and approve the research protocol prior to release of the death record;
- ii. Research personnel shall not identify the subject of the record, directly or indirectly, in any report of the research; and
- iii. Research personnel shall not disclose the identity of the subject of the record in any manner;

2. To qualified personnel for the purpose of conducting management audits, financial audits or program evaluation only under the following conditions:

- i. . Personnel shall not identify the subject of the record, directly or indirectly, in any report of an audit or evaluation; and
- ii. Personnel shall not disclose the identity of the subject of the record in any manner;
- iii. Identifying information shall not be released to the personnel unless it is vital to the audit or evaluation;

3. To the Department as required by State or Federal law; or

4. As permitted by the rules adopted by the Commissioner for the purposes of disease prevention and control.

8:2A-2.2 Certifications

(a) The State Registrar or local registrar may issue certifications containing information obtained from the death record to requestors not identified in N.J.A.C. 8:2A-2.1(a)3, so long as those requestors are first able to identify the record sought.

(b) All certifications issued under (a) above shall state that they are for informational purposes only and are not to be used for identification or legal purposes.

(c) The certification of the death record shall include, at a minimum, the name of the decedent, place of death (county, municipality), date of death, sex, date of birth, date of issuance and manner of death providing this information is available.

(d) The certification of the death record may include other information; however, the last sickness and death particulars (cause of death and medical particulars) will only be included on the certification of the death record if the applicant produces documentation verifying that he or she is:

1. The parent of the subject of the death record;
2. The subject's legal guardian or legal representative;
3. The subject's spouse or domestic partner;
4. The subject's child, grandchild or sibling, if of legal age;

5. A State or federal agency requesting the record for official purposes;
6. A person requesting the record pursuant to a court order; or
7. A person requesting the record under emergent circumstances, as determined by the Commissioner.

(e) Any of the relatives to the decedent listed in (d)1 through 4 above, with the exception of the funeral director as legal representative, may consent to the release to a third party of a certification of the death record containing cause of death and medical particulars. Such consent must be provided in the form of an Authorization for Release of Cause of Death similar to that set forth in Appendix A, incorporated herein by reference.

(f) Any certification of a death record, with or without last sickness and death particulars, may be released without consent under the following conditions:

1. To qualified personnel for the purpose of conducting scientific research only under the following conditions:
 - i. An Institutional Review Board constituted pursuant to Federal regulation 45 C.F.R. 46.101, et seq. shall review and approve the research protocol prior to release of the death record;
 - ii. Research personnel shall not identify the subject of the record, directly or indirectly, in any report of the research; and
 - iii. Research personnel shall not disclose the identity of the subject of the record in any manner;

2. To qualified personnel for the purpose of conducting management audits, financial audits or program evaluation only under the following conditions:

- i. . Personnel shall not identify the subject of the record, directly or indirectly, in any report of an audit or evaluation; and
- ii. Personnel shall not disclose the identity of the subject of the record in any manner;
- iii. Identifying information shall not be released to the personnel unless it is vital to the audit or evaluation;

3. To the Department as required by State or Federal law; or

4. As permitted by the rules adopted by the Commissioner for the purposes of disease prevention and control.

(g) The State Registrar or other custodian of vital records shall not permit physical inspection or access to the full death record, nor shall he or she disclose information, copy or issue the full death record, unless he or she is satisfied that the applicant is authorized to obtain a full copy of such record under N.J.A.C. 8:2A-2.1 or 8:2A-2.2.

8:2A-2.3 Release of Death Record to Employee of a Registered Mortuary

For the purpose of this subchapter, any employee of a mortuary registered pursuant to P.L. 1952, c.340 (N.J.S.A. 47:7-32, et seq.), or a funeral director licensed pursuant to that Act who is affiliated with a registered mortuary, if the mortuary was recorded on the original certificate of death, shall be construed to

be the subject's legal representative and shall be entitled to obtain a full and complete certified copy or certification of the death record.

8:2A-2.4 Fees for certified copies and certifications

(a) For each search of the records of death by the State Registrar, whether or not a certification or a certified copy is made, the applicant shall remit to the State Registrar a fee of \$25.00, with the exception of searches under subsection (b) below and searches for which there shall be no fee pursuant to N.J.S.A. 26:8-63.

(b) For any search of genealogical records of death, whether or not a certification or certified copy is made, the applicant shall remit to the State Registrar a fee of \$25.00, plus a fee of \$1.00 for each additional year searched, except as provided by N.J.S.A. 26:8-63.

(c) The fee for each additional copy of a record of death provided by the State Registrar shall be \$2.00.

(d) Fees for certified copies or certifications obtained from a local registrar shall be set by municipal ordinance.

SUBCHAPTER 3 NEW JERSEY ELECTRONIC DEATH REGISTRATION SYSTEM

8:2A-3.1 Participation in NJ-EDRS Required

(a) The State Registrar shall establish and maintain the NJ-EDRS, which shall be the required means of death registration for any death occurring in this State.

(b) The NJ-EDRS does not alter the existing practice for the filing of a death certificate, but rather, is designed to replace the manual, paper-based data collection, recordation and signature process.

(c) No blanks or methods of registration other than those supplied or approved by the State Registrar shall be used by those registering deaths with the State Registrar or local registrars.

(d) All participants in the death registration process, including, but not limited to, the State Registrar, local registrars, deputy registrars, alternate deputy registrars, sub-registrars, the State medical examiner, county medical examiners, funeral directors, attending physicians and resident physicians, licensed health care facilities, and other public institutions providing medical care, treatment or confinement to persons, shall be required to utilize the NJ-EDRS to provide the information that is required of them by statute or rule.

8:2A-3.2 Access to NJ-EDRS

(a) The State Medical Examiner, county medical examiners, licensed health care facilities, other public or private institutions providing medical care, treatment or confinement to persons, funeral homes and physicians' private practice offices, shall acquire the electronic means prescribed by the State

Registrar to access the NJ-EDRS, or make other arrangements as are necessary for that purpose.

(b) The State Medical Examiner and each county medical examiner, health care facility, institution, funeral home or physician's office shall employ at least one person who is qualified to use the NJ-EDRS, and is registered with the State Registrar as an authorized user, by virtue of completing a course of instruction on the NJ-EDRS provided by the State Registrar or an authorized agent thereof, or satisfying such other requirements as may be established by the State Registrar for this purpose.

(c) Local registrars shall make computer facilities with access to the NJ-EDRS available to funeral directors and physicians registered with the NJ-EDRS, within the regular established business hours of the local registrar, for the purpose of providing information necessary to complete the death record.

8:2A-3.3 Electronic Submission

(a) For the purposes of the NJ-EDRS, the death certificate shall be deemed complete when the attending, covering or resident physician or the county medical examiner, and the funeral director in charge, have completed their respective portions of the death registration record and have filed the record with the local registrar.

(b) A record created on the NJ-EDRS shall be deemed to have been transmitted to the appropriate party(ies) under the circumstances listed in

paragraphs 1 through 7 below, thereby satisfying the following requirements for submission of reports, data and certificates of notification:

1. The requirement at N.J.S.A. 26:6-6(a) that the funeral director in charge of the funeral or disposition of the body of a person dying in this State shall be responsible for the proper execution of a death certificate, filed in exchange for a burial or removal or transit permit with the local registrar of the district in which the death occurred or the body was found or with the registrar of the district in which the funeral director has his funeral home or where the burial or other disposition is to take place;
2. The requirement at N.J.S.A. 26:6-6(a) that in the event the death certificate is filed with the registrar of a district other than that in which the death took place or the body was found, that registrar shall, within 24 hours after issuing the permit, sign and forward the certificate of death to the registrar of the district where the death took place or the body was found, with a statement that the permit was issued;
3. The requirement at N.J.S.A. 26:6-6(a) that in case the death certificate is filed with the deputy registrar, alternate deputy registrar, or subregistrar, he shall within 12 hours forward the certificate to his own registrar, who in turn shall forward the certificate as directed by law;
4. The requirement at N.J.S.A. 26:6-6(b) that any funeral director filing a death certificate in a registration district other than that in which the death occurred or the body was found shall immediately send the State Registrar written notice by first class mail;

5. The requirement at N.J.S.A. 26:8-25(g) that on the tenth day of each month or sooner if requested by the Department, the local registrar transmit to the State Registrar all original death certificates received by him for the preceding month;
6. The requirement at N.J.S.A. 26:8-26 that each subregistrar shall note on each certificate of death, over his signature, the date of filing, and shall forward all certificates to the local registrar of the district within five days, with the exception that in any instance where the subregistrar accepts a certificate for a death not occurring in this district, as permitted by N.J.S.A. 26:6-6, he shall forward the certificate within 12 hours to the local registrar of his district;
7. The requirement at N.J.S.A. 26:6-9 that in case of any death occurring without medical attendance, the county medical examiner shall furnish the funeral director with the necessary data and last sickness particulars to make the death certificate.

8:2A-3.4 Certifying the Particulars

(a) The requirement at N.J.S.A. 26:6-8 that the attending, covering or resident physician, the attending registered professional nurse, or the county medical examiner and the funeral director shall certify to the particulars supplied by them by signing their names below the list of items furnished, shall be satisfied by authenticating their identities and the information that they have provided through the NJ-EDRS.

(b) If a person acting under the direct supervision of the State Medical Examiner, a county medical examiner, funeral director, attending, covering or resident physician, or licensed health care facility or other public or private institution providing medical care, treatment or confinement to persons, which is registered with the NJ-EDRS, is not authorized to authenticate the information required on a certificate of death, that person may enter that information into the NJ-EDRS in anticipation of its authentication by the State Medical Examiner or a county medical examiner, funeral director, attending, covering or resident physician, local registrar, deputy registrar, alternate deputy registrar or subregistrar, as applicable.

8:2A-3.5 Determination and Pronouncement of Death by Registered Professional Nurse

For the purposes of the NJ-EDRS, the requirement at N.J.S.A. 26:6-8.1 that a registered professional nurse who has made the actual determination of death and pronouncement of death under the circumstances permitted by law shall attest to the pronouncement by signing in the space designated for this signature on the certificate of death, shall be satisfied by transmitting orally or in writing a report of the pronouncement to the attending, covering or resident physician, or the county medical examiner.

8:2A-3.6 Fees

(a) Effective March 1, 2004 and until the first day of the thirty-seventh month following January 9, 2004, the State Registrar shall be paid a recording fee for each record filed, whether by means of the current paper process or electronically, in an amount of \$10.00, from the account of the funeral home, which may include this amount in the funeral expenses charged to the estate or person accepting responsibility for the disposition of the deceased's human remains and the costs associated therewith; provided however,

1. This fee shall not apply to the death registration of a person who died while in the military or naval or maritime or merchant marine service of the United States whose death is recorded pursuant to (N.J.A.C. 26:6-5.2, and

2. The State Registrar shall deposit the proceeds from the recording fee into the New Jersey Electronic Death Registration Support Fund established pursuant to N.J.S.A. 26:8-24.2.

(b) The local registrar shall be entitled to receive a fee of \$1.00 for each burial or removal, or transit permit issued; except that, on or after the first day of the first month following January 9, 2004, but before the first day of the thirty-seventh month following January 9, 2004, the local registrar shall be entitled to receive a fee of \$5.00.

(c) Any fee charged by a local registrar, deputy registrar, alternate deputy registrar, subregistrar, or an incorporated political subdivision comprising a registration district, to a funeral home as the legal representative for a person in securing a certified copy of a death certificate shall be in the form of a debit

against the account of the funeral home and a credit to the applicable political subdivision within the NJ-EDRS.

8:2A-3.7 Suspension of Authority to Participate in NJ-EDRS

(a) The State Registrar may suspend the authority of a local registrar, deputy registrar, alternate deputy registrar or subregistrar to participate in the NJ-EDRS, and thereby preclude that person from issuing burial permits or death registration, if the State Registrar determines that the applicable registration district is insufficiently equipped or provides untimely service with respect to the review and final authentication of records.

(b) In the event that the State Registrar does suspend the authority of a local registrar, deputy registrar, alternate deputy registrar or subregistrar to participate in the NJ-EDRS, the State Registrar may assign a local registrar, deputy registrar, alternate deputy registrar or subregistrar from another registration district to substitute for the person in question until such time as the applicable registration district meets the standards established by the State Registrar.

SUBCHAPTER 4 CERTIFIED MUNICIPAL REGISTRAR (CMR)

CERTIFICATION

8:2A-4.1 CMR – Basics Training Course

(a) CMR Certification may be obtained only by attending and successfully completing the CMR – Basics training course approved and authorized by the State Registrar.

(b) The CMR – Basics training course shall include material designed to implement the NJ-EDRS and to familiarize local registrars with the statutory requirements applicable to their duties and any rules adopted pursuant thereto, as deemed appropriate by the State Registrar.

(c) All current local registrars shall obtain CMR certification no later than December 31, 2005, as a condition to retaining their positions.

(d) All current local registrars who have attended and successfully completed the CMR – Basics training course offered on a voluntary basis by the State Registrar prior to the effective date of this chapter shall be deemed to have obtained CMR certification provided that they obtain six re-certification credits approved and authorized by the State Registrar prior to December 31, 2005.

(e) All new appointees to local registrar positions shall be required to obtain CMR certification by attending and successfully completing the CMR – Basics training course within three months of their appointments. Local registrars who fail to meet the requirements for CMR certification shall not be permitted to serve in the capacity of local registrar until such time as they have met the training requirement.

(f) CMR certification may be offered at the discretion of the State Registrar to those serving in the positions of deputy local registrar, alternate deputy local registrar and subregistrar.

(g) A CMR certification is valid for a period of two years.

8:2A-4.2 CMR Certification Renewal

(a) In order to renew a CMR certification, one must obtain 12 re-certification credits approved and authorized by the State Registrar prior to the expiration of his or her current CMR certification.

(b) In the event that a person has allowed his or her CMR certification to lapse, he or she shall be required to attend and successfully complete the CMR – Basics training course in order to maintain CMR certification.

(c) An extension of one's CMR Certification for up to three months may be granted by the State Registrar upon request of the CMR certification holder accompanied by sufficient medical documentation establishing inability to complete the required re-certification credits prior to the expiration of the CMR certification holder's current CMR certification.

APPENDIX A

Authorization for Release of Cause of Death

Date: _____

I, (Name of the person authorizing release), (Relationship), to decedent hereby authorize the issuance of a (Select one - Certified Copy or Certification) of the death record of (Name of decedent), disclosing the cause of death section, to (Name of person receiving certified copy or certification containing the cause of death). I certify that the above information, supplied by me, is true. I am

aware that I am subject to punishment if I have falsely supplied the above information.

(Signature of Notary)

(Signature of Person Authorizing Release)

(Seal of Notary)